

new claims 11 - 100 have been added to amend the claims to conform to U.S. patent practice and to more particularly point out and distinctly claim that which Applicants consider to be the invention. The claims have not been narrowed by these amendments. Support for each of the new claims can be found throughout the specification and claims of the application as originally filed. See e.g., page 5, line 25 - page 7, line 28, Examples at pages 15-16, and claims 3 and 4. Accordingly, no new matter has been added.

II. Restriction Requirement

In the Office Action mailed October 2, 2001, the Examiner required restriction between the following groups of claims:

Group I Claims 1-7, drawn to "compound and composition, classified in class 424, subclass 70.1, class 564, subclass various;

Group II Claim 8, drawn to "process for permanent deformation,..., classified in class 424, subclass 70.2, 70.3 etc"

Group III Claim 9, drawn to "method of use, classified in class 424, 70.3, 70.4, 70.1; class 514, subclass various;" and

Group IV Claim 10, drawn to "a kit, classified in class 206, subclass various."

The Examiner asserts:

The inventions are distinct, each from the other because...[t]he groups I-IV, as outlined above are drawn to the invention which require [sic] separate searches, and are not art recognized equivalents. For example the search for the invention of group I, will not be the same as any other group. They are patentably distinct. A reference used to reject invention [sic] of one group would not be used for any

other group.... The database and other searches for the entire genus would represent excessive burden on the Examiner.

Although claims 1-10 have been canceled, Applicants respectfully traverse this rejection to the extent the Office applies it to new claims 11 - 100. To be fully responsive to the restriction requirement, Applicants elect, with traverse, the subject matter of Group I, claims 1-7, now cancelled and amended to conform with U.S. patent practice as claims 11-44 and 100.

As an initial matter, Applicants note that claims 11 - 44 and 100 correspond to the subject matter of original claims 1-7 (Group I), claims 45 - 97 correspond to the subject matter of original claim 8 (Group II), the subject matter of original claim 9 (Group III) has been cancelled, and claims 98 and 99 correspond to the subject matter of original claim 10 (Group IV).

With respect to the restriction requirement, Applicants refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of an entire application can be made without **serious burden**, the Office **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not demonstrated that examining Groups I - IV together would constitute a serious burden. For example, the Examiner asserts

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

that the claims of Groups I, II and III are classified in class 424. Class 424 is entitled "Drug, Bio-affecting and Body Treating Compositions." However, the Examiner indicates that the claims of Group I are classified in subclass 70.1 of class 424, which is entitled "Live Hair or Scalp Treating Compositions (Nontherapeutic)," and that the claim of Group II is classified in subclass 70.2 and 70.3 of class 424. For the record, Applicants could not find a subclass 70.3 of class 424 and respectfully request clarification from the Examiner. Subclass 70.2 of class 424, however, does exist and is "**indented under subclass 70.1**" and is drawn to "[c]ompositions which have utility in permanent waving or straightening (relaxing) the hair." See U.S.P.T.O. Classification Schedule, Class definition for Class 424 at 70.2 (emphasis added). The Examiner also indicates that claim 9 of Group III would have been classified in class 424, subclasses 70.1, 70.3, and 70.4, thus overlapping those subclasses of Groups I and II. Further, Applicants note that subclass 70.4 of class 424 is "**indented under subclass 70.2**" and is drawn to "compositions which contain as an ingredient a metal salt." See U.S.P.T.O. Classification Schedule, Class definition for Class 424 at 70.2 (emphasis added). Applicants also respectfully point out that the compositions of the claims in groups other than that of Group III also comprise the inorganic salts of derivatives of formula (I) and the organic salts of derivatives of formula (I).

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
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Further, the Examiner indicates that claims of Group I are also classified in class 564, "subclass various." Class 564 is entitled "Organic Compounds" and Applicants cannot find any subclass under which the claims of Groups II, III, and IV would not also fall. The Examiner also indicates that the claim of Group III are also classified in class 514, "subclass various." Class 514 is, like Class 424, entitled "Drug, Bio-Affecting and Body Treating Compositions" and is defined as being "considered to be an **integral part of Class 424**...and [t]his class retains all pertinent definitions and class lines of Class 424." See U.S.P.T.O. Classification Schedule, Class definition for Class 514 (emphasis added). Finally, Applicants cannot determine why original claim 10, pending as claims 98 and 99, drawn to a "kit comprising, in a first compartment, an oxidizing composition, and, in a second compartment, a reducing composition comprising at least one reducing agent chosen from N-substituted formamidinesulphinic acid derivatives of formula (I), the inorganic salts thereof, and the organic salts thereof..." would not require a search of any of the other classes under which Groups I, II, and/or III fall. Accordingly, Applicants once again respectfully request further explanation.

For at least the foregoing reasons, Applicants assert that Groups I, II, III, and IV, when properly analyzed, are at least classified in the same class, which means the search for these groups of claims will at least substantially overlap, if not completely overlap. Accordingly, the Examiner has not demonstrated that

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

examining Groups I - IV together would constitute a serious burden. Thus, Applicants respectfully submit that the restriction requirement is in error and request that the requirement be withdrawn.

III. Election Requirement

In the October 2, 2001, Office Action, the Examiner also required Applicants to elect a single disclosed species for examination on the merits. Specifically, the Examiner asserted that "claim 1 is generic."

Although claims 1-10 have been canceled, Applicants respectfully traverse this rejection to the extent the Office applies it to new claims 11 - 100. Applicants assume that the Examiner requires election of a single species of N-substituted formamidinesulphinic acid derivative of formula (I) and request confirmation of their assumption. To be fully responsive, however, Applicants provisionally elect, with traverse, imino(phenylamino) methane sulphinic acid. This species corresponds to the example on pages 15-17 of the specification, therein named N-phenylformamidine sulphinic acid, and reads on claims 11-100. See e.g., claims 14 and 15.

Applicants traverse the election of species requirement on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the claimed species. In fact, the Examiner has failed to show that any burden exists. Accordingly, Applicants respectfully request that the full

scope of the claimed invention be examined in this application without an election requirement. If the Examiner chooses to maintain the election requirement, however, and should the elected species be found allowable, Applicants expect the Examiner to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the full scope of the patentability thereof, *i.e.*, extending the search to the non-elected species, as is the duty of the Examiner according to MPEP § 803.02 and 35 U.S.C. § 121.

IV. Conclusion

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (202) 408-4173.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Shalia V. Wannematt, Reg. No. 39,064
By: *for Anthony C. Tridico*
Anthony C. Tridico
Reg. No. 45,958

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